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Attorneys for Plaintiff Pacific Information Resources, Inc.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

Pacific Information Resources, Inc., a
 California Corporation,

Plaintiff,

vs.

SIMPLE COMMUNICATIONS, an Alabama
 corporation; WILLIAM TRAVIS SULLIVAN,
 individually, AND DOES 1 through 100,
 inclusive, WHOSE IDENTITIES ARE
 UNKNOWN,

Defendants.

CASE NO. CV-07-4131 MMC

**[Before the Honorable Maxine M.
 Chesney, Courtroom 7]**

**[PROPOSED] ORDER FOR DEFAULT
 JUDGMENT BY COURT**

[Filed in Support of Application for Default
 Judgment by Court, Memorandum of Points
 and Authorities in Support Thereof,
 Declaration of Konrad L. Trope, Pacific's
 Request for Judicial Notice Declaration of
 Timothy J. Koster, Declaration of Expert
 Hayden Bond, Declaration of Expert Ran
 Hadas, Ph.D.]

Complaint Filed: August 9, 2007
 Default Entered: October 2, 2007

Hearing Date: April 4, 2008
 Hearing Time: 9:00 a.m.
 Department: 7

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[Proposed] Order for Default Judgment by Court

Case No. CV-07-4131

pacific information resources\pleadings\sullivan and simple communications\proposed order for default judgment final as filed 02 28 08

1 Upon consideration of Plaintiff's Application for Entry of Default Judgement against
2 Mark Musselman, and the Memorandum of Law and Declarations in support thereof, it is
3 ORDERED that Plaintiff's Application is GRANTED with the court finding as follows:

- 4 (1) Plaintiff Pacific Information Resources, Inc. (Pacific) owns and operates the
5 website located at www.searchsystems.net (the "**WEBSITE**");
- 6 (2) Pacific has registered two valid copyrights concerning the **WEBSITE**. One
7 registration, bearing Registration No. TX 6-275-368 protects the text of the
8 **WEBSITE**, bearing the URL www.searchsystems.net. Plaintiff's other valid
9 copyright registration at issue in this stipulated permanent injunction, bears
10 Registration No. TX 6-275-367 which protects the PHP Hyper Text Processor
11 source code of the **WEBSITE**. True and correct copies of the copyright
12 registrations are attached hereto and incorporated herein as **Exhibit "1" (the**
13 **"COPYRIGHTS")**;
- 14 (3) Pacific also has a valid registration from the United States Patent and Trademark
15 Office for its service mark consisting of the word mark "search systems" within a
16 design or drawing bearing USPTO Trademark Registration No. 2019094 (the
17 "**SERVICE MARK**"). A true and correct copy of this registration for Plaintiff's
18 registered **SERVICE MARK** is attached hereto and incorporated herein as
19 Exhibit "2"; and
- 20 (4) Pacific has continuously, for the preceding five years, at the very least,
21 continuously and openly used variations of its registered **SERVICE MARK**, but
22 such variations, while not registered, acquired secondary meaning and thus are
23 fully protected under applicable federal and state law as described in Pacific's
24 Complaint on file with the court; that Pacific's registered **SERVICE MARK** and
25 unregistered service marks are collectively hereinafter referred to as the
26 "**SERVICE MARKS**" and that the unregistered but legally valid and protected

1 **SERVICE MARKS** of Plaintiff include, but are not limited to, the terms:

2 “searchsystems”, “searchsystems.net”.

3 Consequently, the Court orders that Defendant Simple Communications, its agents,
4 servants, employees, officers, attorneys, successors, licensees, partners and all persons acting in
5 concert with each or any of them and Defendant William Travis Sullivan, his entire family,
6 agents, servants, employees, officers, attorneys, successors, licensees, partners and assigns, and
7 all persons acting in concert with each or any of them, are permanently enjoined from inducing,
8 aiding, assisting, encouraging, enabling, engaging in, causing, materially contributing to, or
9 otherwise facilitating through any means, whether in existence or later created, the unauthorized
10 and/or unlicensed user reproduction, downloading, uploading, distribution of copies of Plaintiff’s
11 copyrighted works, including but not limited to any and all content, materials and information
12 contracted in, derived from or otherwise, whether now in existence or later created. The conduct
13 hereby enjoined includes, but is not limited to:

14 a. directly, indirectly, vicariously, or contributorily infringing
15 Plaintiff Pacific Information Resources' registered **SERVICE MARKS**;

16 b. directly, indirectly, vicariously, or contributorily infringing
17 Plaintiff Pacific Information Resources' unregistered **SERVICE MARKS** which
18 have become distinctive in the public's mind and cause the public to associate
19 Plaintiff Pacific Information Resources' services and Website with the **SERVICE**
20 **MARKS**;

21 c. directly, indirectly, vicariously, or contributorily infringing
22 Plaintiff Pacific Information Resources' unregistered **TRADE NAMES** which
23 have become distinctive in the public's mind and cause the public to associate
24 Plaintiff Pacific Information Resources' services and Website with the **TRADE**
25 **NAMES**;

d. directly, indirectly, vicariously, or contributorily selling or marketing services in any way that tends to deceive, mislead, or confuse the public into believing that the Defendants' service is in any way sanctioned by or affiliated with Plaintiff Pacific Information Resources' Website;

e. directly, indirectly, vicariously, or contributorily diluting the distinctive quality of Pacific Information Resources' SERVICE MARKS, TRADE NAMES, TRADE DRESS and the Website;

f. directly, indirectly, vicariously, or contributorily otherwise competing unfairly with Plaintiff Pacific Information Resources or the Website;

g. directly, indirectly, vicariously, or contributorily infringing Plaintiff Pacific Information Resources' copyrights relating to or concerning its Website and Source Code.

h. directly, indirectly, vicariously, or contributorily hosting websites for or otherwise providing services or products to Airon Corporation, a Massachusetts corporation, Alexei Borisov and Levon Gasparian, their agents, heirs, assigns, affiliates, officers, servants, employees, successors-in-interest and all persons in concert or participation with Airon Corporation and/or Alexei Borisov and/or Levon Gasparian.

The Court further orders that Defendant Simple Communications, its agents, servants, employees, officers, attorneys, successors, licensees, partners and all persons acting in concert with each or any of them and Defendant William Travis Sullivan, his entire family agents, servants, employees, officers, attorneys, successors, licensees, partners and assigns, and all persons acting in concert with each or any of them, are permanently enjoined from directly, indirectly, vicariously, or contributorily reproducing, copying, manufacturing, importing, using, promoting, selling, renting, leasing, distributing, or displaying:

- (1) any part of the **WEBSITE** or any website substantially similar to the copyright protected **WEBSITE**;
- (2) any part of the **SERVICE MARKS**; or
- (3) from authorizing anyone to do the same, or from exercising any other of the exclusive rights of a copyright owner and a service mark owner under the various federal and state statutes listed in Pacific's Complaint.
- (4) selling or marketing services in any way that tends to deceive, mislead, or confuse the public into believing that any of the Musselman's websites or other activities were or are in any way sanctioned by or affiliated with Pacific's **WEBSITE**;
- (5) diluting the distinctive quality of Pacific's **SERVICE MARKS**; or
- (6) otherwise competing unfairly with Pacific or its **WEBSITE**; or
- (7) from authorizing anyone to do the same, or from exercising any other of the exclusive rights of a copyright owner and a service mark owner under the various federal and state statutes listed in Pacific's Complaint.

It is further ORDERED that JUDGMENT in the amount of \$_____ is ENTERED against Defendants Simple Communications, an Alabama corporation and William Travis Sullivan.

SO ORDERED

Dated: _____, 2008

Honorable MAXINE M. CHESNEY
United States District Judge

PROOF OF SERVICE

I am employed in the County of Orange, State of California in the office of a member of the Bar of this Court at whose direction this service was made. I am over the age of 18 and not a party to the within action; my business address is: **4631 Teller Avenue, Suite 140, Newport Beach, California 92660.**

On **February 28, 2008**, I served the foregoing document described as:

[PROPOSED] ORDER FOR DEFAULT JUDGMENT BY COURT

on the interested parties in this action by placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

XX BY MAIL: I deposited such envelope in the mail at Irvine, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee at the address on the attached Mailing List.

BY FEDEX: I deposited such envelopes at Irvine, California for collection and delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary business practices. I am "readily familiar" with the firm's practice of collection and processing packages for overnight delivery by Federal Express. They are deposited with a facility regularly maintained by Federal Express for receipt on the same day in the ordinary course of business.

BY FACSIMILE: I transmitted the foregoing document by facsimile to the party(s) identified above by using the facsimile number(s) indicated. Said transmission(s) were verified as complete and without error.

BY INTERNET/E-MAIL: I transmitted the foregoing document by e-mail to the party(s) identified above by using the Internet Protocol Addresses indicated. Said transmission(s) were verified as complete and without error.

BY INTERNET/E-MAIL WITH CLERK OF THE COURT: I certify that on 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing as indicated on the attached Mailing List.

1 I certify and declare under penalty of perjury under the laws of the State of California that
2 the foregoing is true and correct.

3 Executed on **February 28, 2008** at Irvine, California.

4 /s/
J. Renée Nordyke

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[Proposed] Order for Default Judgment by Court

Case No. CV-07-4131

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SERVICE LIST:

Pacific Information Resources v Simple Communications, et. al.
Case No. C-07-4131 MMC

VIA U.S. MAIL

William Travis Sullivan
4931 Mason Road
Clayton, Washington 99110

Simple Communications
4931 Mason Road
Clayton, Washington 99110

Simple Communications
701 22nd Avenue
Tuscaloosa, Alabama 35401